

TO: BOARD OF DIRECTORS  
FROM: MARIO IGLESIAS  
GENERAL MANAGER  
DATE: JULY 3, 2020



## **PRESENTATIONS AND REPORTS**

The following presentations and reports are scheduled:

- C-1) QUARTERLY ENGINEER'S REPORT, DIRECTOR OF ENGINEERING AND OPERATIONS REPORT ON DISTRICT PROJECTS SYSTEM-WIDE  
[RECOMMEND RECEIVE AND FILE]
- C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT AND COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES AND SEMINARS.  
Receive Announcements and Reports from Directors
- C-3) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE AND FILE PRESENTATIONS AND REPORTS

# Engineering and Operations Update – April 2020 to June 2020



Peter V. Sevcik, P.E.  
Director of Engineering and Operations  
Nipomo Community Services District  
July 8, 2020



# COVID-19 Response Current Status

- Following CDC, State and Local social distancing guidance
- Operations office access restricted to District staff
- Staff working normal schedule
- Performing normal operations and maintenance tasks
- Monitoring health of staff
- Monitoring inventory and availability of critical services and supplies



# COVID-19 Response Current Status

- Continuing work on construction projects
  - Nipomo Supplemental Water Project Nipomo Area Pipeline Improvements
  - Southland WWTF Storage Building
  - Eureka Well
- Monitoring ability to continue construction projects

# Projects in Construction

## Supplemental Water Project Nipomo Area Pipeline Improvements

- Construction in Progress
- Billed to date - \$1,596,668
- Contract Completion Date - October 2020
- Contract Cost - \$2,946,528



# Projects in Construction

## Southland WWTF Storage Building

- Construction in Progress
- Billed to date - \$146,900
- Tentative Completion Date – August 2020
- Contract Cost - \$191,000



# Projects in Construction

## Eureka Well Replacement

- Construction in Progress
- Billed to Date – \$178,339
- Tentative Completion Date – August 2020
- Contract Cost – \$738,678



# Projects in Bid Phase

## Supplemental Water Project Joshua Road Pump Station Pump #1-4 Improvements

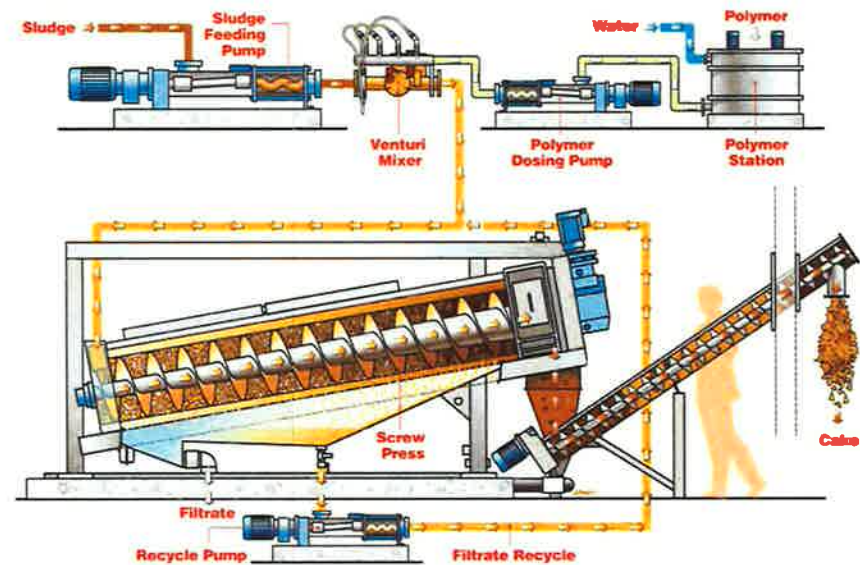
- Board authorization to bid – February 2020
- Bids Opened – June 25, 2020
- Tentative Board bid award – July 22, 2020
- Apparent low bid - \$385,149



# Projects in Bid Phase

## Southland WWTF Screw Press

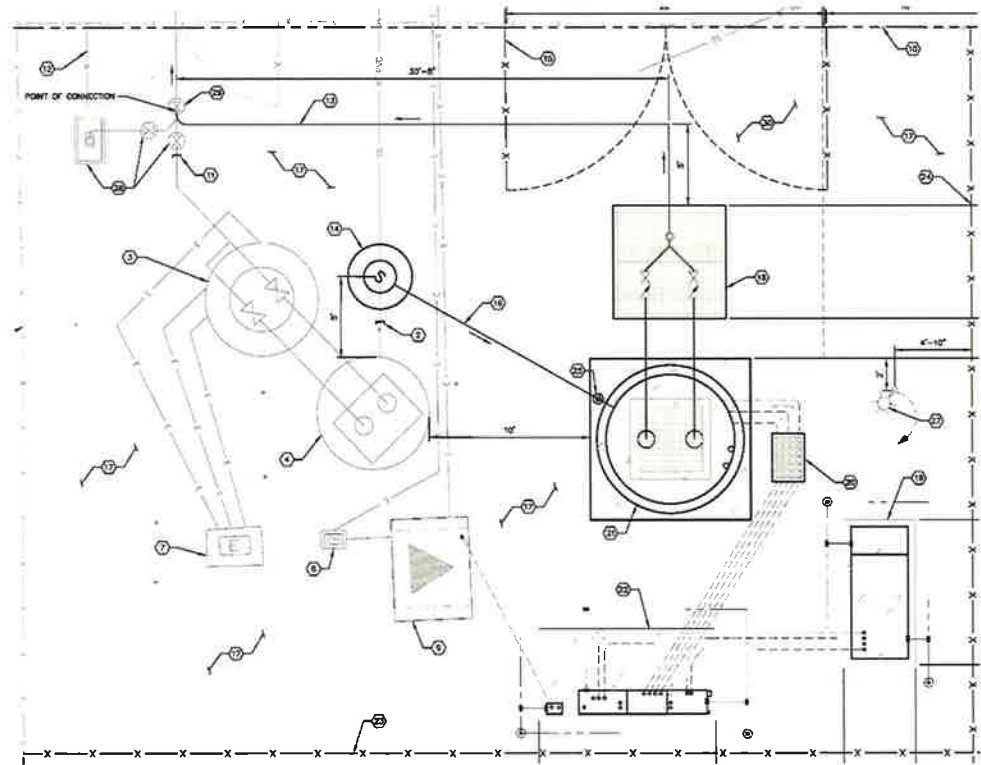
- Board approved Pre-Qualification Resolution  
– June 10, 2020
- Pre-Qualification Packages Due  
– July 29, 2020



# Projects in Design

## Nipomo Palms Lift Station Replacement

- 99% design review pending
- Tentative Board authorization to bid – July 2020
- Tentative Board bid award – October 2020



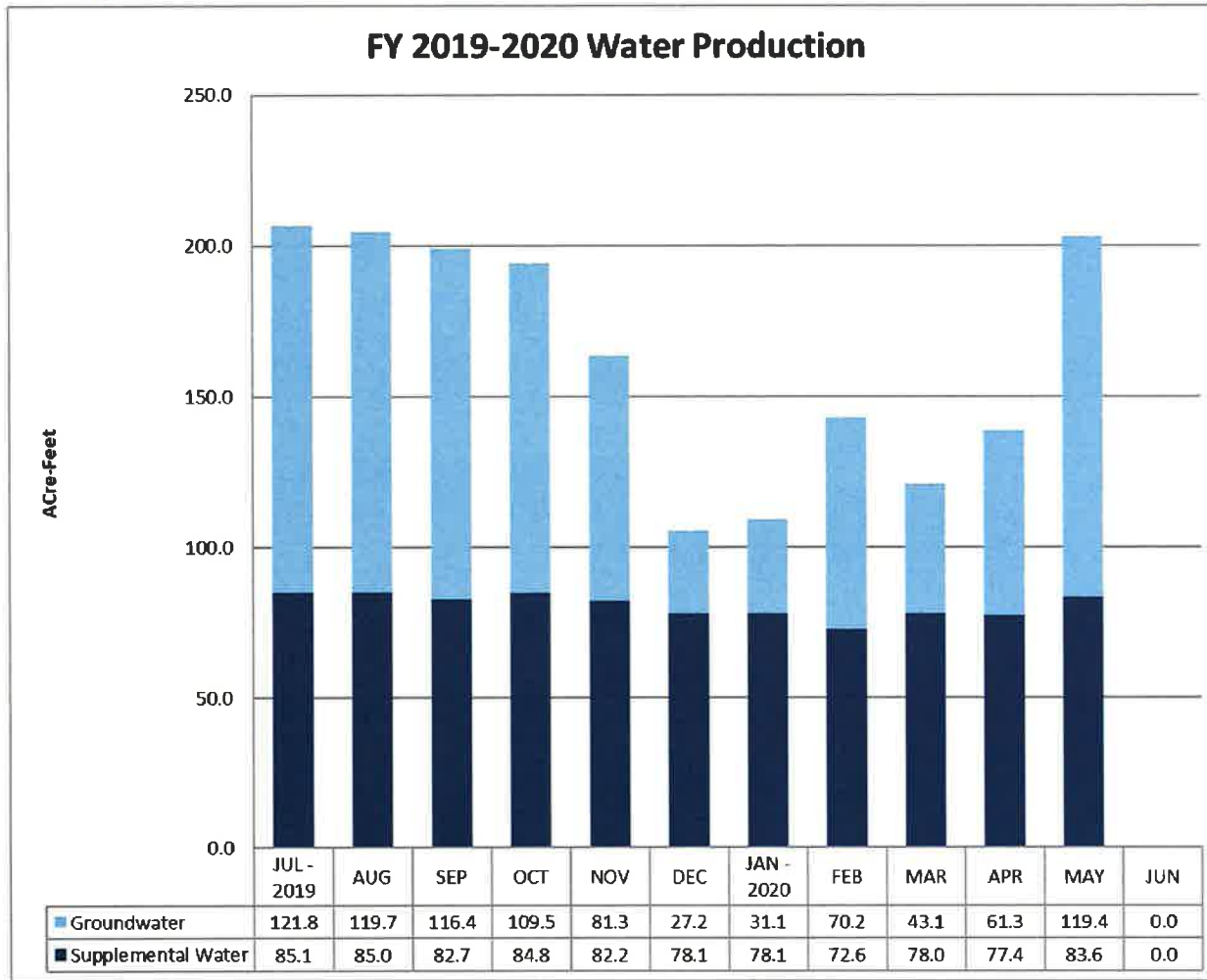


# Projects in Planning

## **Blacklake Sewer Consolidation**

- Assessment District formation approved – May 2020
- Board authorization to issue lift station and force main design request for proposals – June 2020
- Tentative Board lift station and force main design contract approval – August 2020
- Tentative Board authorization to bid – January 2022
- Tentative Board construction contract award – May 2022
- Tentative construction completion date – March 2024
- Treatment plant permitting not started
- CEQA review not started

# Operations – Water System



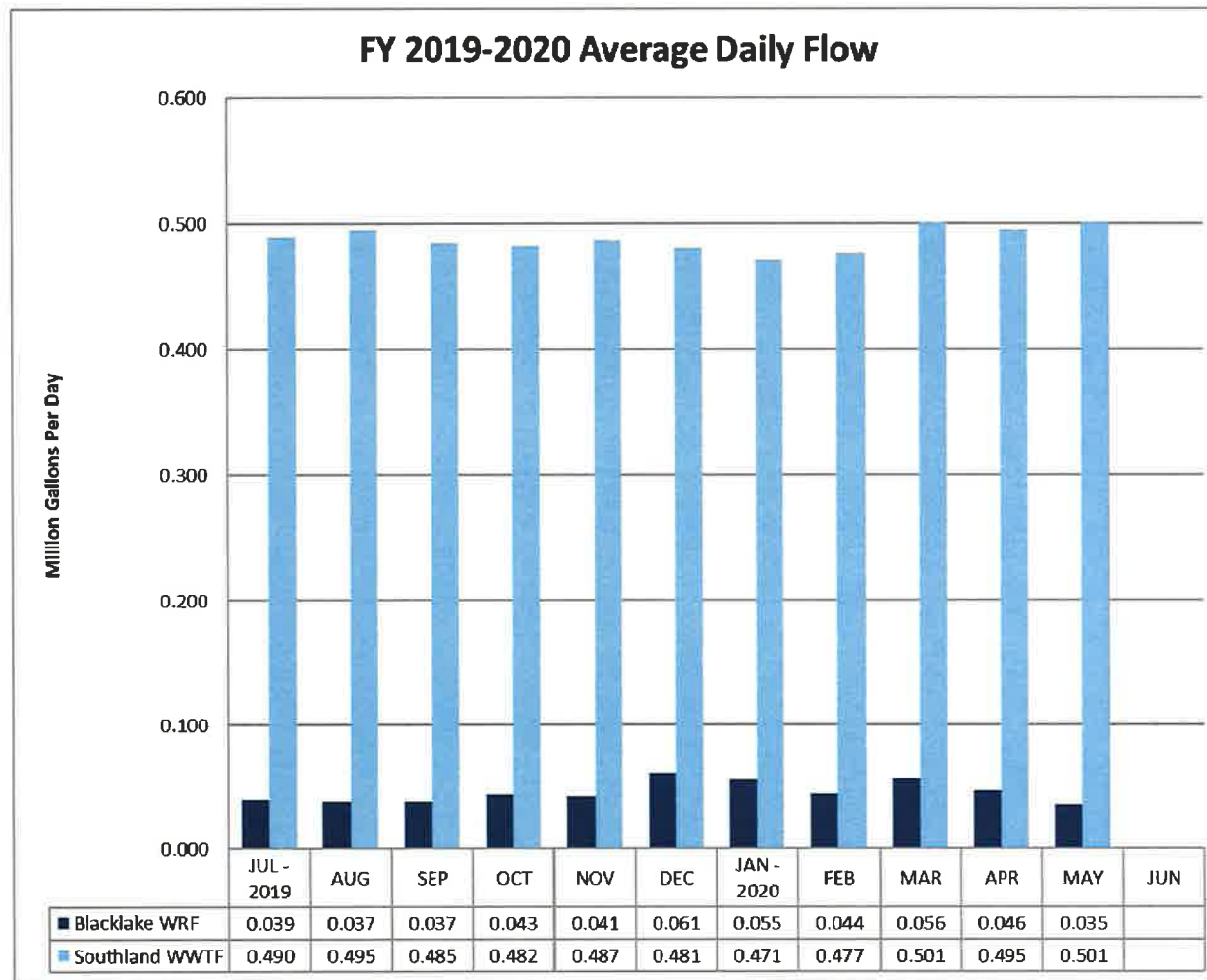
Supplemental Water	888 AF
Groundwater	901 AF
FY 19-20 Total Production To Date	1789 AF



# Operations – Water System

- **State Water Resources Control Board Division of Drinking Water**
  - Submitted routine monthly coliform, quarterly raw water coliform, quarterly nitrate, quarterly disinfection byproducts,
  - Submitted 2019 Annual Water System Report
  - Prepared 2019 Consumer Confidence Report
- **Other Water Operations**
  - Replaced Sundale Well variable frequency drive (VFD) and motor

# Operations – Wastewater



<b>Blacklake WRF</b>	<b>15.1 MG</b>
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<b>Southland WWTF</b>	<b>163.8 MG</b>
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<b>FY 19-20 Total Wastewater Flow Treated To Date</b>	<b>178.9 MG or 549 AF</b>
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# Operations – Wastewater System

- **State Water Resources Control Board**
  - Routine monthly and quarterly reports submitted
  - Obtained recertification for Environmental Laboratory
- **Other Wastewater Operations**
  - Evaluating draft general waste discharge order provisions for impact on operation of Southland and Blacklake wastewater treatment plants

A decorative graphic at the top of the slide consisting of several overlapping, wavy blue lines that create a sense of motion and depth.

# Engineering and Operations

## Questions

TO: BOARD OF DIRECTORS  
FROM: MARIO IGLESIAS  
GENERAL MANAGER  
DATE: JULY 3, 2020

**AGENDA ITEM**

**D**

**JULY 8, 2020**

**CONSENT AGENDA**

The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item removed. If discussion is desired, the item may be removed from the Consent Agenda by a Board member and will be considered separately at the conclusion of the Administrative Items. Individual items on the Consent Agenda are approved by the same vote that approves the Consent Agenda, unless an item is pulled for separate consideration. The recommendations for each item are noted in bracket. Members of the public may comment on the Consent Agenda items.

**Questions or clarification may be made by the Board members  
without removal from the Consent Agenda.**

- D-1) WARRANTS [RECOMMEND APPROVAL]
- D-2) APPROVE JUNE 24, 2020, REGULAR BOARD MEETING MINUTES  
[RECOMMEND APPROVE MINUTES]
- D-3) AUTHORIZE PURCHASE OF PICKUP TRUCKS IN ACCORDANCE WITH  
APPROVED FY 20-21 BUDGET [RECOMMEND AUTHORIZE STAFF TO  
PURCHASE PICKUP TRUCKS FROM PERRY FORD AT A COST OF \$59,100]

TO: BOARD OF DIRECTOR  
REVIEWED: MARIO IGLESIAS  
GENERAL MANAGER  
FROM: LISA BOGNUDA  
FINANCE DIRECTOR  
DATE: JULY 3, 2020



WARRANTS WILL BE DISTRIBUTED ON TUESDAY, JULY 7, 2020.

TO: BOARD OF DIRECTORS  
FROM: MARIO IGLESIAS  
GENERAL MANAGER  
DATE: JULY 3, 2020

**AGENDA ITEM**  
**D-2**  
**JULY 8, 2020**

**APPROVE JUNE 24, 2020  
REGULAR BOARD MEETING MINUTES**

**ITEM**

Approve action minutes from previous Board meetings. [RECOMMEND APPROVE MINUTES]

**BACKGROUND**

The draft minutes are a written record of the previous Board Meeting action.

**RECOMMENDATION**

Approve Minutes

**ATTACHMENT**

- A. June 24, 2020 draft Regular Board Meeting Minutes

JULY 8, 2020

ITEM D-2

ATTACHMENT A

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community since 1965*

## DRAFT REGULAR MINUTES

**JUNE 24, 2020 AT 9:00 A.M.**

JON S. SEITZ BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### **BOARD of DIRECTORS**

DAN ALLEN GADDIS, **PRESIDENT**  
CRAIG ARMSTRONG, **VICE PRESIDENT**  
BOB BLAIR, **DIRECTOR**  
ED EBY, **DIRECTOR**  
DAN WOODSON, **DIRECTOR**

### **PRINCIPAL STAFF**

MARIO IGLESIAS, **GENERAL MANAGER**  
LISA BOGNUDA, **FINANCE DIRECTOR**  
PETER SEVCIK, **DIRECTOR OF ENG. & OPS.**  
CRAIG STEELE, **GENERAL COUNSEL**

### **Mission Statement:**

Provide our customers with reliable, quality, and cost-effective services now and in the future.

*Pursuant to Governor Newsom's Executive Order N-25-20, members of the Nipomo Community Services District Board or staff may participate in this meeting in person, or via teleconference. To protect the health and safety of the public, Board members, and staff, social distancing will be practiced at the District's physical location, 148 S. Wilson Street. Members of the public may choose to participate in person at this location or monitor the audio portion of the meeting and any public hearings telephonically by calling (800) 567-5900 (code 242-2614#). Pursuant to Governor Newsom's Executive Order N-29-20, members of the public may also comment – on items on this agenda or items not on the agenda but within the jurisdiction of the Board – via email sent to [info@ncsd.ca.gov](mailto:info@ncsd.ca.gov) prior to the 9:00 am meeting start time. All emails received by that time will be distributed to the Board. Public participation in the meeting and public hearings will be taken only as described above. If any individual with a disability requires assistance to observe or participate in the meeting, please contact the District office by telephone at least 24 hours in advance.*

### **A. CALL TO ORDER AND FLAG SALUTE**

*President Gaddis called the Regular Meeting of June 24, 2020, to order at 9:00 a.m. and led the flag salute.*

### **B. ROLL CALL AND PUBLIC COMMENT FOR ITEMS NOT ON AGENDA**

*At Roll Call, all Board Members were present in the Board Room.*

*There were no public comments.*

### **C. PRESENTATIONS AND REPORTS**

#### **C-1 PRESENTATION REGARDING DANA RESERVE DEVELOPMENT APPLICATION FOR ANNEXATION INTO THE DISTRICT [RECOMMEND RECEIVE PRESENTATION - NO ACTION]**

Wade Horton, Chief Executive Officer of San Luis Obispo County, spoke of the County's need for housing.

David Church, Executive Director of Local Agency Formation Commission of San Luis Obispo, addressed the Board and explained LAFCO's role in an annexation proceeding.

Nick Tompkins, Managing Member of Dana Reserve, provided an overview of the Dana Reserve Development.

SUBJECT TO BOARD APPROVAL

**Nipomo Community Services District  
DRAFT REGULAR MEETING  
MINUTES**

Laurie Tamura, Project Planner for Dana Reserve, outlined the timeline envisioned for bringing the development to the construction phase.

Rick Sweet, Engineering Consultant for Dana Reserve, explained the needs and benefits of the project related to the District's interest.

The Board took a break from 10:30 a.m. to 10:55 a.m.

**C-2) SPRING 2020 GROUNDWATER INDEX PRESENTATION [RECOMMEND RECEIVE AND FILE]**

Brad Newton, of Newton Geo-Hydrology Consulting Services, presented the Spring 2020 Groundwater Index and answered questions from the Board.

**C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT AND COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES AND SEMINARS.**

Receive Announcements and Reports from Directors

*Director Gaddis*

- *June 15, attended Board Officers' meeting.*

**C-4) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE AND FILE PRESENTATIONS AND REPORTS**

*There were no public comments.*

*Upon the motion of Director Blair and seconded, the Board unanimously approved receiving and filing presentations and reports.*

*Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Blair, Eby, Woodson, Armstrong, and Gaddis</i>	<i>None</i>	<i>None</i>

**D. CONSENT AGENDA**

**D-1) WARRANTS [RECOMMEND APPROVAL]**

**D-2) APPROVE JUNE 10, 2020, REGULAR BOARD MEETING MINUTES [RECOMMEND APPROVE MINUTES]**

**D-3) CONSIDER RESOLUTION ADOPTING SAN LUIS OBISPO COUNTY MULTI-JURISDICTIONAL LOCAL HAZARD MITIGATION PLAN UPDATE 2019 [RECOMMEND ADOPT RESOLUTION]**

**D-4) ADOPT RESOLUTION UPDATING NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC RECORDS POLICY [RECOMMEND ADOPT RESOLUTION]**

**D-5) CONSIDER ADOPTING A RESOLUTION TO ESTABLISH PRE-QUALIFICATION POLICY AND APPEALS PROCEDURE FOR SOUTHLAND WASTEWATER TREATMENT FACILITY SLUDGE DEWATERING SCREW PRESS PROJECT**

SUBJECT TO BOARD APPROVAL

**Nipomo Community Services District  
DRAFT REGULAR MEETING  
MINUTES**

[RECOMMEND ADOPT RESOLUTION ESTABLISHING PRE-QUALIFICATION AND APPEALS POLICY FOR SOUTHLAND WWTF SLUDGE DEWATERING SCREW PRESS PROJECT]

*Item D-3 was pulled for discussion. Directors Eby and Armstrong voiced concern that the Figure L-9 Fire Hazard Severity in the Nipomo CSD map was outdated and directed staff to send a written comment to the County to alert them of their concerns. Director Blair made a similar request regarding the community at Summit Station.*

*There were no public comments.*

*Upon the motion of Director Eby and seconded, the Board unanimously approved Consent Agenda, and directed Staff to forward comments to the County on Item D-3. Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
Directors Eby, Blair, Woodson, Armstrong and Gaddis	None	None

**RESOLUTION NO. 2020-1564**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES ADOPTING THE  
SAN LUIS OBISPO COUNTY MULTI-JURISDICTIONAL  
LOCAL HAZARD MITIGATION PLAN UPDATE 2019**

**RESOLUTION NO. 2020-1565**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING AN  
UPDATED PUBLIC RECORDS POLICY**

**RESOLUTION NO. 2020-1566**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ESTABLISHING A PRE-QUALIFICATION POLICY AND  
APPEALS PROCEDURE FOR THE SOUTHLAND WASTEWATER  
TREATMENT FACILITY SLUDGE DEWATERING SCREW PRESS PROJECT**

**E. ADMINISTRATIVE ITEMS**

**NO ADMINISTRATIVE ITEMS**

**F. GENERAL MANAGER'S REPORT**

*Mario Iglesias, General Manager, presented the item and answered questions from the Board. There were no public comments. Peter Sevcik, Director of Engineering and Operations answered questions from the Board.*

*There were no public comments.*

**G. COMMITTEE REPORTS**

*None*

**H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS**

Director Blair asked if there would be a 4<sup>th</sup> of July parade this year.

**SUBJECT TO BOARD APPROVAL**

**Nipomo Community Services District  
DRAFT REGULAR MEETING  
MINUTES**

Director Blair asked about landscaping along Highway 101 at the Southland Wastewater Treatment Facility.

There were no public comments.

**I. CLOSED SESSION ANNOUNCEMENTS**

**1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION  
PURSUANT TO GC §54956.9**

- a. SMVWCD V. NCSD (SANTA CLARA COUNTY CASE NO. CV 770214,  
SIXTH APPELLATE COURT CASE NO. H032750, AND ALL  
CONSOLIDATED CASES

**J. PUBLIC COMMENT ON CLOSED SESSION ITEMS**

*There were no public comments.*

**K. ADJOURN TO CLOSED SESSION**

**L. OPEN SESSION**

**ANNOUNCEMENT OF REPORTABLE ACTIONS, IF ANY, TAKEN IN CLOSED SESSION**

Craig Steele, District Legal Counsel, announced the Board discussed Item 1 in Closed Session and took no reportable action.

**ADJOURN MEETING**

*President Gaddis adjourned the meeting at 12:45 p.m.*

MEETING SUMMARY	HOURS & MINUTES
Regular Meeting	3 hour 00 minutes
Closed Session	0 hour 45 minutes
TOTAL HOURS	3 hour 45 minutes

Respectfully submitted,

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Mario Iglesias, General Manager and Secretary to the Board

Date

TO: BOARD OF DIRECTORS

REVIEWED: MARIO IGLESIAS  
GENERAL MANAGER

FROM: PETER V. SEVCIK, P.E.  
DIRECTOR OF  
ENGINEERING & OPERATIONS

DATE: JUNE 30, 2020



**AUTHORIZE PURCHASE OF PICKUP TRUCKS  
IN ACCORDANCE WITH APPROVED FY 20-21 BUDGET**

**ITEM**

Authorize staff to purchase pickup trucks in accordance with approved FY 20-21 Budget [RECOMMEND AUTHORIZE STAFF TO PURCHASE PICKUP TRUCKS FROM PERRY FORD AT A COST OF \$59,100].

**BACKGROUND**

The District's FY 2020-2021 budget allocated funding for the purchase of two pickup trucks. One truck will replace a 2009 Ford pickup truck and the second truck is an additional truck for Operations.

District staff solicited quotes for similarly equipped, readily available pickup trucks from a local dealer as well as through Sourcewell, formerly known as National Joint Powers Alliance (NJPA), a national government purchasing cooperative that the District belongs to, and received quotes as follows:

Dealer	Total Cost
Perry Ford	\$59,100
Sourcewell	\$61,563

The vehicles quoted by both vendors meet the District's minimum specifications.

**FISCAL IMPACT**

Funding in the amount of \$90,00 was allocated in the FY 2020-2021 District budget for the purchase of two pickup trucks.

**RECOMMENDATION**

Staff recommends that the Board, by motion and roll call vote, authorize staff to purchase two pickup trucks from Perry Ford in the amount of \$59,100.

**ATTACHMENTS**

None.

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS  
GENERAL MANAGER

DATE: JULY 1, 2020

## **AGENDA ITEM E-1**

**JULY 8, 2020**

### **CONSIDER AUTHORIZING GENERAL MANAGER TO ENTER INTO A DEPOSIT AGREEMENT WITH THE DANA RESERVE OWNERS TO EVALUATE THEIR ANNEXATION APPLICATION**

#### **ITEM**

Consider authorizing the General Manager to enter into a deposit agreement with the Dana Reserve property owners to evaluate their annexation application [RECOMMEND AUTHORIZE GENERAL MANAGER TO ENTER INTO DEPOSIT AGREEMENT]

#### **BACKGROUND**

The Nipomo Community Services District ("District") received an annexation application from NKT Nipomo Properties LLC ("Owner"), on June 24, 2020. The Owner wishes to annex a 288 acre parcel, currently located in the District's sphere of influence ("SOI"), into the District's service area. As with all annexations, the District must create an administrative record demonstrating a thorough evaluation of the impacts that the proposed project would have on the District's water and sewer enterprises.

The purpose of the Deposit Agreement ("Agreement") is to secure funding from the Owner to finance the cost of engineering, legal, financial, and administrative reports that evaluate the impact on the District and build the administrative record. These reports are required in order to provide the District's Board of Directors with the information necessary for their understanding of the project impact on the District infrastructure.

The cost of securing all reports deemed by staff to be necessary in support of the administrative record and the Board's decision making process is estimated to be \$140,000. However, should the costs for building the administrative record exceed this amount, the Agreement has provisions that require the Owner to pay those costs as well. Consequently, if the cost to produce the necessary reports is less than the funds collected by the District, those unused portions of the collected funds would be reimbursed to the Owner.

It is anticipated that it will take between six to eight months from the date the Agreement is approved for staff to gather the information and draft the reports needed by the District's Board of Directors to evaluate the project. The timing as stated is dependent on the District's professional consulting team's availability. District staff would keep the District's Board of Directors apprised of its progress through District Committee Meetings and through the bi-monthly Manager's Report.

The Owner has reviewed and signed the attached Deposit Agreement.

#### **FISCAL IMPACT**

Funds for preparing this staff report were drawn from the Owner's \$1,500 application fee. Should your Board approve the Deposit Agreement, future staff time for processing the annexation

application and time needed to review and guide the District's consulting team will be charged to those funds collected in the Deposit Agreement.

## **STRATEGIC PLAN**

Goal 1. WATER SUPPLIES. Actively plan to provide reliable water supply of sufficient quality and quantity to serve both current customers and those in the long-term future.

- B.1 Seek to have the County implement sustainable water supply policies that match the level of development they approve, including all the features described in the Water Resources Policy Statement.
- B.2 Engage with other local and regional organizations to develop solutions to long-term water supply challenges such as providing emergency backup supplies, and ensuring long-term water supply reliability, etc.

Goal 2. FACILITIES THAT ARE RELIABLE, ENVIRONMENTALLY SENSIBLE AND EFFICIENT. Plan, provide for and maintain District facilities and other physical assets to achieve reliable, environmentally sensible, and efficient District operations.

- B.1 NCSD shall maintain long-range infrastructure management, upgrade and replacement planning.

Goal 4. FINANCE. Maintain conservative, long-term financial management to minimize rate impacts on customers while meeting program financial needs.

- A.3 Develop a Near-, Mid-, and Long-Term Plan to Pay for Take-or-Pay Water. Evaluate potential and options for ramping rates over time compared to making rate jumps as the water becomes available.
- B.1 Evaluate, plan for and maintain finances that are adequate for all needs, stable, and reliable over the long-term.

## **RECOMMENDATION**

Staff recommends your Board take public comment, discuss as a Board, and if appropriate, authorize the General Manager to sign the Deposit Agreement.

## **ATTACHMENTS**

- A. Nipomo Community Services District Deposit Agreement

JULY 8, 2020

ITEM E-1

ATTACHMENT A

DEPOSIT AGREEMENT FOR COSTS OF PROCESSING ANNEXATION  
APPLICATION SUBMITTED TO NIPOMO COMMUNITY SERVICES DISTRICT

THIS AGREEMENT is made this 2<sup>nd</sup> day of July, 2020, by and between the Nipomo Community Services District, a California special district ("District") and Dona Reserve LLC, a limited liability ("Applicant").

WITNESSETH:

WHEREAS, Applicant is the legal owner of certain real property consisting of approximately 288 acres located south of Willow Road, west of Highway 101, with a southerly extension short of Sandy Dale and a westerly extension to Hetrick Ave., Nipomo, San Luis Obispo County, California, identified as Assessor Parcel Number(s) 091-301-073, 091-301-030, 091-301-031 (collectively, the "Property") within the Sphere of Influence of the Nipomo Community Services District; and,

WHEREAS, Applicant has submitted an application to the District requesting that the Property be annexed into the District ("Application"); and,

WHEREAS, the Application will cause the District to incur costs associated with engineering, legal, administrative, and/or consultant services in connection with its review, evaluation, and consideration of the Application ("District Services"); and,

WHEREAS, the District is willing to perform the necessary District Services, at the Applicant's cost, and desires that the Applicant provide a deposit to cover those costs; and,

WHEREAS, Applicant is willing to provide said deposit on the terms and conditions hereinafter provided.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Recitals.

The above recitals are incorporated herein by this reference and made a part hereof.

2. Deposit for District Services.

a. Initial Deposit. Applicant shall provide the District with an initial deposit in the amount of one-hundred forty-thousand dollars (\$140,000.00) at the time of execution of this Agreement. The Initial Deposit and any subsequent Replenishment Deposit(s) described in Section 2(b) below are collectively referenced herein as the "Deposit."

b. Costs of District Services. On a monthly basis, District may draw on the Deposit to reimburse District for District Services costs actually incurred by District. District shall separately account for the Deposit funds and provide accounting backup for such

reimbursements to Applicant upon reasonable written request. District's General Manager shall have the sole discretion to determine which District Services costs shall be paid from the Deposit.

c. Replenishment Deposit(s). Subject to the provisions of this Agreement, Applicant hereby agrees that whenever the amount of the Deposit declines to \$20,000 or less, the District may request an additional deposit to return the Deposit to an amount reasonably necessary to cover all anticipated District Services as District may determine in its discretion, including amounts above the amount of the Initial Deposit ("Replenishment Deposit"). Applicant shall deliver such Replenishment Deposit to the District within fifteen (15) days following such written request.

d. Suspension of Work. District shall have no obligation to continue performing District Services related to the Application at any time that the Deposit declines to \$20,000 or less and has not been replenished by Applicant following notice provided pursuant to Section 2(b) above. Any District Services performed for which the current Deposit balance is insufficient to fully reimburse the District shall be invoiced to Applicant and shall accrue interest at the rate of 10% per annum or the legal rate, whichever is less, if the invoice is not paid by the Applicant within fifteen (15) days of receipt.

e. Return of Deposit. Within fifteen (15) days following the termination of this Agreement, District will return any unexpended portion of the Deposit to Applicant, without interest, less any costs for District Services rendered as of the date of termination and less any amount owed to the District by Applicant.

3. Term of Agreement and Termination.

This Agreement shall become effective on the date first written above and shall remain in effect until the District takes final action to deny the Application, the proposed annexation is finalized by the San Luis Obispo County Local Area Formation Commission, or the Applicant withdraws its Application, whichever occurs first.

4. Direction of District Services.

a. Direction of Work. District has sole discretion to direct the work and to evaluate the performance of its employees, officers, agents, consultants, counsel, and representatives assigned to undertake the District Services, and District retains the absolute right to terminate or replace at any time any such person or entity. Any documents prepared hereunder shall reflect the independent judgment of the District and shall remain within the District's control and ownership. Accordingly, even though the funds provided hereunder may be utilized to retain consultants or perform engineering, legal, or administrative costs, such individuals and organizations shall work solely for the District and shall not take direction or guidance from Applicant. Applicant acknowledges and agrees that this Agreement does not create an attorney-client relationship between legal counsel retained by District and Applicant and that it does not create any form of contractual or employment relationship between Applicant and District's employees, officers, agents, or consultants engaged to perform the District Services.

b. Selection and Payment by District. District has sole and absolute discretion

to select which of its employees, officers, agents, consultants, counsel, or representatives are assigned to perform the District Services. District has the sole and absolute discretion to determine the amount of compensation paid to its employees, consultants, counsel, or representatives assigned to undertake the District Services.

c. District to Retain Discretion Regarding Annexation Application. Applicant acknowledges and agrees that notwithstanding Applicant's reimbursement obligations under this Agreement, District retains its discretion and ability to exercise its independent judgment in the processing, implementation, approval, or denial of the Application and its requirements. Applicant warrants and represents that no District official, officer, employee, agent, or attorney has represented, expressly or impliedly, that District will approve or otherwise assure any specific outcome on the Application or its conditions. Notwithstanding anything in this Agreement to the contrary, District retains all authority and discretion granted to it by law to take any action to which it is legally entitled to take regarding the Application.

5. Assignment.

The provisions of this Agreement shall apply to and bind the successors, grantees, and assigns of the respective parties, but no assignment or transfer of this Agreement, or any part hereof, or interest herein by the Applicant shall be valid until and unless approved by the District in writing. Such approval shall be conditioned on the agreement by the assignee, grantee, successor or transferee to be bound by the terms and conditions of this Agreement.

6. Jurisdiction and Venue.

This Agreement is executed and is to be performed in within the County of San Luis Obispo, and any action or proceeding brought relative to this Agreement shall be heard in the Superior Court in the County of San Luis Obispo, California. District and Applicant hereby each consent to the personal jurisdiction of the court in any such action or proceeding.

7. Attorney's Fees.

In the event of any litigation or other legal proceeding of any nature between the District and Applicant to enforce or interpret all or any portion of this Agreement, it is mutually agreed that the prevailing party therein shall receive from the other, in addition to such sums as may be awarded, an amount sufficient to reimburse such prevailing party for reasonable attorney's fees and costs paid or owing as a result of such proceeding.

8. Waiver of Rights.

Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default, or matter.

9. Remedies Not Exclusive.

The use by either party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

10. Entire Agreement; Amendment.

This Agreement is freely and voluntarily entered into by the parties after having the opportunity to consult with their respective attorneys. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. The parties, in entering into this Agreement, do not rely on any inducements, promises, or representations made by each other, their representatives, or any other person, other than those inducements, promises, and representations contained in this Agreement. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the Applicant and the District.

11. Notices.

All notices, statements, reports, approvals, requests, invoices, or other communications that are required either expressly or by implication to be given by either party to the other under this Agreement shall be in writing and signed for each party by such officers as each may, from time to time, be authorized in writing to so act. All such notices shall be deemed to have been received: (a) on the date of delivery if delivered personally; (b) three (3) days after mailing if enclosed in a properly addressed and stamped envelope and deposited in a United States Post Office for delivery; or (c) on the next business day if transmitted by e-mail with return receipt requested and receipt confirmed. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as shown below:

Nipomo Community Services District  
Mario Iglesias  
148 S. Wilson Street  
P.O. Box 326  
Nipomo, California 93444  
miglesias@ncsd.ca.gov

Applicant: Dana Resource LLC  
Name: Nick Tompkins  
Address: 684 Highway  
San Luis Obispo, Ca 93401  
email: nick@nktcommercial.com

12. Severability.

If any term or provision of this Agreement is found to be invalid or unenforceable, District and Applicant both agree that they would have executed this Agreement notwithstanding the invalidity of such term or provision. The invalid term or provision may be severed from the Agreement and the remainder of the Agreement may be enforced in its entirety.

13. Headings.

The paragraph headings used in this Agreement are for reference only, and shall not in any way limit or amplify the terms and provisions hereof, nor shall they enter into the interpretation of this Agreement.

14. Cooperation.

Each party to this Agreement agrees to do all things that may be necessary, including, without limitation, the execution of all documents which may be required hereunder, in order to implement and effectuate this Agreement.

15. Representations of Authority.

Each party signing this Agreement hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that the person executing this Agreement has been authorized to sign this Agreement and bind the party on whose behalf that person signs.

16. Interpretation of this Agreement.

The parties acknowledge that each party has reviewed, negotiated and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by any party in connection with the transactions contemplated by this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Nipomo Community Services District

\_\_\_\_\_  
Mario Iglesias, General Manager

\_\_\_\_\_  
Date

Approved as to form

\_\_\_\_\_  
Craig A. Steele, District Counsel

Applicant

Don Reserve LLC  
Applicant Name and Title  
Nick Tompkins Managing member  
[Signature]  
Applicant Name and Title

7/2/2020  
Date

7/2/2020  
Date

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS  
GENERAL MANAGER

DATE: JULY 1, 2020

## **AGENDA ITEM E-2**

**JULY 8, 2020**

### **CONSIDER A RESOLUTION ADOPTING A POLICY REGARDING THE COSTS OF POTENTIAL FUTURE CONNECTIONS TO IMPROVEMENTS FINANCED BY ASSESSMENT DISTRICT 2020-1 (BLACKLAKE SEWER CONSOLIDATION)**

#### **ITEM**

Consider a resolution that adopts a policy regarding the costs of potential future connections to improvements financed by Assessment District 2020-1, Blacklake Sewer Consolidation [RECOMMEND ADOPTED RESOLUTION]

#### **BACKGROUND**

The Nipomo Community Services District ("District") has formed Assessment District 2020-1 Blacklake Sewer Consolidation ("Assessment District"). The purpose of the Assessment District is to fund sewer improvements that modernize and consolidate the Blacklake sewer system with the Town sewer system. The overlying reason for modernizing and consolidating the Blacklake sewer system with the Town sewer system is to control sewer costs and stabilize rates for the District's sewer customers.

The proposed resolution adopts a policy that addresses potential future connections to the improvements financed by properties subject to the assessment levied in Assessment District. It identifies the method to be used in determining a fair and equitable cost of potential future connections and how funds collected by potential future connections are to be used.

#### **FISCAL IMPACT**

The resolution and policy have no direct fiscal impact to the District.

#### **STRATEGIC PLAN**

Goal 4. FINANCE. Maintain conservative, long-term financial management to minimize rate impacts on customers while meeting program financial needs.

#### **RECOMMENDATION**

Staff recommends your Board take public comment, discuss as a Board, and if appropriate, adopt the resolution.

#### **ATTACHMENTS**

- A. Resolution 2020-15XX, Adopting a policy regarding the costs of potential future connections to improvements financed by Assessment District 2020-1 (Blacklake Sewer Consolidation)

JULY 8, 2020

ITEM E-2

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2020-\_\_\_\_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING A POLICY REGARDING  
THE COSTS OF POTENTIAL FUTURE CONNECTIONS TO IMPROVEMENTS  
FINANCED BY ASSESSMENT DISTRICT 2020-1 (BLACKLAKE SEWER CONSOLIDATION)**

**WHEREAS**, the Board of Directors of the Nipomo Community Services District ("NCSD") has undertaken the necessary legal processes to form Assessment District 2020-1 ("Assessment District") for the modernization and consolidation of the Blacklake Sewer Consolidation and, with the majority approval of the affected property owners, will levy an annual assessment on the properties located within said Assessment District; and

**WHEREAS**, the NCSD intends to issue bonds secured by the assessment to finance the significant costs of the improvements necessary for the Blacklake Sewer Consolidation Project; and

**WHEREAS**, it is possible that properties located within, or in the vicinity of, the Assessment District that are not currently a part of the Assessment District will propose in the future to connect to the sewer improvements constructed with the funds raised by the assessment as well as those contributed to the project by NCSD; and

**WHEREAS**, fairness dictates that owners of property who benefit in the future by connecting to sewer improvements funded by the Assessment District, but not subject to the assessment levied in the Assessment District, must bear a full and equitable share of the costs of the improvements.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Board of Directors of the Nipomo Community Services District, as follows:

1. The facts and findings stated above are true and correct and incorporated herein.
2. Any property owner or project applicant for property that is either: 1) located within the boundaries of Assessment District 2020-01, but not currently subject to the assessment, or 2) located outside Assessment District 2020-01, but proposes to connect to the District's wastewater system through or using any of the improvements that are constructed as a part of the Blacklake Sewer Consolidation Project, shall pay to NCSD an in-lieu fee for that property's proportionate share of the costs of said Project. Said in-lieu fee shall be established by later resolution of the Board based on a technical study and fiscal analysis, and shall be paid at the same time that other applicable NCSD fees are due and paid. NCSD shall not finalize water or wastewater connections to the property until the in-lieu fees imposed by this resolution are paid.
3. The property owner or applicant shall also reimburse NCSD's costs of retaining a consultant or consultants to complete the technical study and/or fiscal analysis necessary to establish the amount of the in-lieu fee at the time the connection is applied for.

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2020-\_\_\_\_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING A POLICY  
REGARDING THE COSTS OF LATER CONNECTIONS TO IMPROVEMENTS  
FINANCED BY ASSESSMENT DISTRICT 2020-1 (BLACKLAKE SEWER CONSOLIDATION)**

4. NCSD shall use revenue generated by the in-lieu fee to reduce the principal amount of bonded indebtedness for Assessment District 2020-01 and rebate those assessed property owners who prepaid their assessments, having all assessed properties sharing with equal consideration and proportion as assigned in the 2020 Assessment Engineer's Report, then, if there are funds remaining, for the repair or replacement of equipment serving the Blacklake Sewer Consolidation project.
5. The General Manager is hereby directed to maintain a copy of this Resolution on file with the records of Assessment District 2020-01 to ensure that the policy adopted herein is applied to future development as applicable until such time the Bonds are retired in full.

Upon motion by Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, on the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

the foregoing resolution is hereby passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
**DAN A. GADDIS**  
President of the Board

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
**MARIO E. IGLESIAS**  
General Manager and Secretary to the Board

\_\_\_\_\_  
**CRAIG A. STEELE**  
District Legal Counsel